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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/584,512

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EXAMINER

ZETTL, MARY E

ART UNIT

PAPER NUMBER

2875

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/584,512	Applicant(s) ENGEL, HARTMUT S.	
	Examiner MARY ZETTL	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/27/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 21, 28, 32, and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 21, 32, and 36, the phrase "in particular" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 28, the phrase "can be" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 21-31, 35, and 37-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Baldwin (US 4,186,433 A).

Regarding claim 21, Baldwin teaches a built-in lamp having a holder (5) for fastening in an installation surface (4), having an illuminant fitting (2) and having a reflector (12), wherein the holder and reflector (12) are arranged relative to one another such that the reflector (12) extends beyond the installation surface (4) in a main direction of illumination (A) with a built-in lamp secured in the installation surface (4), with the reflector being coupled in this region extending beyond the installation surface to a reflection element (11b) which extends perpendicular or at an angle to the main direction of illumination (A), is arranged outside the reflector (12) and can be illuminated by light via the region lying between the installation surface (1) and the reflection element (11b), wherein the reflector (12) is made one of translucent and transparent at least sectionally in its region extending beyond the installation surface (see Figure 1; Abstract) and the reflection element (11b), and wherein, in addition to the reflector (12), an additional light discharge region (note rays E and C) is provided, which surrounds the reflector (8) at least regionally via which a reflection element (11b) can be illuminated by a portion of the light (Figure 1).

Regarding claim 22, Baldwin discloses the reflection element (11b) is made as reflecting or as specularly reflecting at its side facing the installation surface (4; Figure 1).

Regarding claim 23, Baldwin discloses the reflection element (11b) is made as a reflecting scattering plate for one portion of the incident light and as a light permeable

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scattering plate for another portion of the incident light (made semi-transparent, in other words it is semi-permeable scattering depending on the angle of light; col. 2, lines 29-39).

Regarding claim 24, Baldwin discloses the reflection element (in addition to 11b also including item 14) having transparent regions or openings (14; Figure 1).

Regarding claim 25, Baldwin discloses the reflection element being releasably connected to the reflector (via item 13; Figure 1).

Regarding claim 26, Baldwin discloses a plurality of reflection elements (11b, 10a, 14) are arranged outside the reflector (12) which in particular have different sizes to one another (Figure 1).

Regarding claim 27, Baldwin discloses the additional light discharge region (note rays E and C) in a plane which coincides at least substantially with the plane of the installation surface (4) or which extends perpendicular or obliquely to the plane of the installation surface (for example note that ray E of Figure 1, will pass through the plane of installation surface, item 4).

Regarding claim 28, Baldwin discloses the inner space of the reflector (12) and the additional light discharge region (note area around rays E and C) is illuminated by a common illuminant (1; Figure 1).

Regarding claim 29, Baldwin discloses the reflector (12) having a first reflector opening (bottom of 12; as oriented in Figure 1) disposed in the main direction of illumination (A) and a second reflector opening (closer to item 2) disposed opposite to the main direction of illumination (A), with an additional reflector (4b) being associated with the second reflector opening (Figure 1).

Regarding claim 30, Baldwin discloses a light passage region is formed between the additional reflector (4b) and the reflector (12; Figure 1).

Regarding claim 31, Baldwin discloses the additional reflector (4b) is formed at least partly by at least one planar or presetably curved or kinked reflector surface (4b) which ensures a presettable division of the portion of the reflected light directed to the reflector (12) and to the additional light discharge region (4b).

Regarding claim 35, Baldwin discloses an opening of the reflector (12) is disposed in the main direction of illumination and is open (Figure 1).

Regarding claim 37, Baldwin discloses the reflector (12) can be released from a housing (wherein 4b can be considered to form part of a housing or 10 be considered a housing and items 3a and 13, respectively are the releasing elements).

Regarding claim 38, Baldwin discloses the reflector (12) is supported at the housing (in this case 10) in an articulated manner and can be fastened by means of one of a releasable screw connection, magnet connection, clip connection, latch connection and bayonet connection (col. 2, lines 32-35).

Regarding claim 39, Baldwin discloses the reflector (12) is displaceably supported in the housing (10) in the main direction of illumination (A; Figure 1).

Regarding claim 40, Baldwin discloses an elongated illuminant (1) is provided in the reflector (12) and its longitudinal direction of extent coincides with the main direction of illumination (A) or its longitudinal direction of extent extends perpendicular to the main direction of illumination (Figure 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 32, 33, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baldwin (US 4,186,433 A) in view of Jongewaard et al. (US 6,561,670 B1).

Regarding claim 32, Baldwin teaches the illuminant (1) and the reflector (12) are arranged in a housing (10) whose inner surface is made at least regional as an additional reflector (see Figure 1).

Baldwin does not disclose expressly the housing being lightproof and/or dustproof.

Jongewaard et al. teaches a lamp including a the housing (formed of 42, 44, and 22) being lightproof and/or dustproof (col. 4, lines 36-41).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the invention of Baldwin such that the housing was lightproof and/or dustproof as taught by Jongewaard et al. in order to prevent dust from entering the interior which would have adverse effects on the light output and have the potential for damaging / degrading the electrical components.

Regarding claim 33, Baldwin teaches the additional reflector (part of 10) being made as specularly reflecting or diffusely reflecting (col. 2, lines 62-64).

Regarding claim 36, Baldwin teaches wherein a housing (10) being terminated by a translucent or transparent plate (11b) in the region of the additional light discharge

region and by a further transparent plate (14), in the region of the opening (bottom of 12) of the reflector (12) disposed in the main direction of illumination.

Baldwin does not disclose expressly the housing being terminated in a dustproof manner.

Jongewaard et al. teaches a lamp including a the housing (formed of 42, 44, a d 22) being lightproof and/or dustproof (col. 4, lines 36-41).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the invention of Baldwin such that the housing was dustproof as taught by Jongewaard et al. in order to prevent dust from entering the interior which would have adverse effects on the light output and have the potential for damaging / degrading the electrical components.

4. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baldwin (US 4,186,433 A) in view of Jongewaard et al. (US 6,561,670 B1).

Regarding claim 34, Baldwin teaches the use of specularly reflecting or diffusely reflecting surfaces (col. 2, lines 62-64).

Baldwin and Jongewaard et al. do not disclose expressly the outer side of the reflector being specularly reflecting or diffusely reflecting.

An “obvious to try” rationale may support a conclusion that a claim would have been obvious where one skilled in the art is choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success. “[A] person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If

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this leads to the anticipated success, it is likely that product [was] not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show that it was obvious under § 103.” KSR International Co. v. Teleflex Inc., 550 U.S. ___, ___, 82 USPQ2d 1385, 1397 (2007). Also see MPEP 2154 X.

Therefore, it would have been obvious to one of ordinary skill in the art to have tried a specularly reflecting or diffusely reflecting surface for the outer side of the reflector of Baldwin since it is within technical grasp (as demonstrated by being present with other components) and furthermore since one would anticipated being able to create a more uniform light output.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Zettl whose telephone number is 571-272-6007. The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Sandy O’Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MZ

/Mary Zettl/

/Sharon E. Payne/

Primary Examiner, Art Unit 2875